

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
WINSTON-SALEM DIVISION**

IN RE:)	
)	
BARRY WILLIAM GILES and)	CASE NO. 11-50864
LAUREN NICOLE GILES)	
)	
Debtors.)	Chapter 7
_____)	

ORDER AND OPINION DENYING REAFFIRMATION AGREEMENT

This case came before the Court on August 7, 2012 pursuant to Section 524 of the Bankruptcy Code, for consideration of a reaffirmation agreement between the above-referenced debtors (the “Debtors”) and World Omni L.T. (the “Creditor”). The Debtors filed a reaffirmation agreement purporting assume a lease of a 2001 Toyota Corolla and for the Debtor to remain personally liable for the obligations due under the lease. The agreement involves a lease of personal property, which is not subject to reaffirmation under Section 524. Rather, Section 365(p)(2) of the Bankruptcy Code governs the assumption of a lease of personal property. Nowhere in the text of Section 365(p) is there any provision for or suggestion that the bankruptcy court hold a hearing or enter an order with respect to a personal property lease assumption agreement by the debtor. In re Fareley, 451 B.R. 235, 241 (Bankr. E.D.N.Y. 2011). A Section 365(p) assumption is not akin to a Section 524 reaffirmation; neither the disclosures under Section 524(k) nor the hearing and court approval under 524(m) are required. Id.; see also In re Eader, 426 B.R. 164, 167 (Bankr. D. Md. 2010) (“The court concludes that [under] Section 365(p)(2) a lease assumption agreement contains no provision under which the court may approve or disapprove.”). Therefore, the Court shall not, in this case or in the future, enter any orders approving or disapproving a debtor’s lease assumption agreements under Section 365(p).

It is therefore ORDERED that the agreement for reaffirmation of a lease of a 2001 Toyota Corolla between the Debtors and the Creditor, filed on September 6, 2011, is hereby adjudged as unenforceable and, therefore, shall not be binding upon the Debtors.

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PARTIES IN INTEREST

James D. Gillespie, Esquire

World Omni L.T.

Edwin H. Ferguson, Jr., Trustee